

FISH AND GAME CODE - FGC
DIVISION 4. BIRDS AND MAMMALS [3000 - 4904]

(Division 4 enacted by Stats. 1957, Ch. 456.)

PART 1. PROVISIONS GENERALLY APPLICABLE TO BOTH [3000 - 3472.2]

(Part 1 enacted by Stats. 1957, Ch. 456.)

CHAPTER 2. Commercial Activities [3200 - 3472.2]

(Chapter 2 enacted by Stats. 1957, Ch. 456.)

ARTICLE 1. Domesticated Game Breeding [3200 - 3219]

(Article 1 enacted by Stats. 1957, Ch. 456.)

3200.

Any person engaged in raising or importing, or who keeps in captivity, in this state domesticated game birds or domesticated game mammals which normally exist in the wild in this state shall procure a domesticated game breeder's license if the birds or mammals are kept more than 30 days after acquisition. No license is, however, required of any of the following:

- (a) Licensed pheasant clubs, except to the extent provided in Section 3283.
- (b) Licensed domesticated migratory game bird shooting areas as defined in Article 4 (commencing with Section 3300) of Chapter 2 of Part 1 of Division 4.
- (c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of those birds or mammals for actual consumption on the premises.
- (d) Retail meat dealers selling such meat to customers for actual consumption.
- (e) Public zoological gardens possessing those birds or mammals for exhibition purposes or for the purpose of disposing of the birds or mammals by sale, exchange, or donation to other public zoological gardens.

(Amended by Stats. 1992, Ch. 244, Sec. 1. Effective January 1, 1993.)

3201.

No person shall sell the carcass of any domesticated game bird or mammal without first obtaining a domesticated game breeder's license from the department. The department may issue such a license upon terms and conditions as the commission may prescribe, and the commission may at any time revoke such a license for sufficient cause.

(Amended by Stats. 1985, Ch. 234, Sec. 1.)

3202.

There are classes of domesticated game breeder's licenses, designated "class 1" and "class 2."

(a) A class 1 domesticated game breeder's license authorizes the licensee to engage in all domesticated game breeding activities except that not more than 175 Chinese ringneck or Mongolian ringneck pheasants, or both, or hybrids thereof, may be sold under a class 1 license.

(b) A class 2 domesticated game breeder's license is required in order to sell more than 175 Chinese ringneck or Mongolian ringneck pheasants, or both, or hybrids thereof, and entitles the licensee to all the rights and privileges of a class 1 license.

(Amended by Stats. 1992, Ch. 244, Sec. 2. Effective January 1, 1993.)

3203.

The department shall issue a class 1 domesticated game breeder's license upon the payment of a base fee of eight dollars (\$8), as adjusted under Section 713, and a class 2 domesticated game breeder's license upon the payment of a base fee of forty dollars (\$40), as adjusted under Section 713.

(Amended by Stats. 1993, Ch. 589, Sec. 62. Effective January 1, 1994.)

3204.

Licenses issued under the provisions of this article are valid for a term of one year from January 1st, or, if issued after the beginning of such term, for the remainder thereof.

A domesticated game breeder's license shall be conspicuously displayed on the property where the birds or mammals are held in captivity.

(Enacted by Stats. 1957, Ch. 456.)

3205.

Carriers for hire may carry within the State live domesticated game birds and mammals upon such terms and conditions as the commission may prescribe.

(Enacted by Stats. 1957, Ch. 456.)

3206.

No domesticated game bird or mammal shall be transported or sold dead unless each quarter and each loin of the carcass of each large mammal, the carcass of each bird, except as provided in Section 2401 for a domesticated game bird raised outside this State, and the carcass of each small mammal is tagged with a

domesticated game breeder's tag or seal. The tag or seal shall not be removed until such quarter, loin, or carcass is prepared for consumption.

No tag so affixed shall be used again.

No tag or seal shall be sold by the department to anyone other than a person who is legally in possession of domesticated game.

(Enacted by Stats. 1957, Ch. 456.)

3207.

The department shall collect three cents (\$0.03) for each tag or seal.

(Enacted by Stats. 1957, Ch. 456.)

3208.

On or before January 31st of each year, every person to whom a domesticated game breeder's license has been issued shall report the following to the department on a form provided by the department:

(a) The total number of each species of game birds and mammals killed, sold, or shipped during the preceding year.

(b) The names of the persons to whom such game birds or mammals were sold or shipped.

(c) The name of the person in whose presence such game birds or mammals were tagged.

(d) A complete list of the game birds and mammals held in his possession at the time the report is made.

Such report shall be verified by the affidavit of the licensee.

(Enacted by Stats. 1957, Ch. 456.)

3209.

(a) In lieu of the tag required by Section 3206, poultry processing plants licensed pursuant to Chapter 4 (commencing with Section 18650) or Chapter 4.1 (commencing with Section 18940) of Part 3 of Division 9 of the Food and Agricultural Code, which process domesticated game birds received from persons licensed pursuant to this article, may package each individual carcass in a nonreusable container clearly labeled on the outside with the species of bird and the wording "Product of a Licensed California Domesticated Game Breeder."

(b) Each processor receiving domesticated game birds shall keep a complete record of all birds received showing all of the following:

(1) The date received.

(2) The number and species of birds in each lot or shipment.

(3) The complete name, address, and domesticated game breeders' license number of the person from whom the birds were received.

(4) The disposition of processed birds, the date of sale or shipment, the quantity and species sold or shipped, and the person to whom the birds were sold or shipped.

(c) The records shall be retained by the processor for one year following date of processing. These records shall be subject to inspection upon demand by any officer of the department during hours the processing plant is in operation or open for business.

(d) This section does not affect the requirements of Section 3206 governing tagging domesticated game birds for transportation by those other than licensed poultry processors.

(Added by Stats. 1986, Ch. 65, Sec. 1.)

3212.

The keeper of a hotel, restaurant, boardinghouse, or club may sell portions of a quarter or loin of a large mammal, or the carcass of a game bird or mammal raised or imported under a domesticated game breeder's license, to a patron for actual consumption on the premises only, and no license for that purpose shall be required of such keeper or club. All keepers of hotels, restaurants, boardinghouses, or clubs who sell any such game for consumption to a patron shall be required to submit to the inspection of their premises by the department and shall display for such inspection any carcass or parts thereof held in storage for sale. All such game shall be tagged under Section 3206.

(Enacted by Stats. 1957, Ch. 456.)

3213.

A retail meat dealer may, without a license, sell portions of a quarter or loin of a large mammal or the carcass of a game bird or mammal raised or imported under a domesticated game breeder's license to a customer for actual consumption.

Retail dealers shall submit their premises to inspection by the department, and shall display at any authorized inspection any carcass or parts thereof held by them in storage. Such game meat or carcasses shall be tagged under Section 3206.

(Enacted by Stats. 1957, Ch. 456.)

3214.

Domesticated game breeders or other persons holding domesticated game mammals in captivity shall confine the mammals in escape-proof cages or enclosures. In the event any of the mammals escape from the cages or enclosures, the owner shall immediately make every reasonable effort to recapture them. If the owner fails to recapture the escaped mammals, the department may capture the mammals or remove them from the wild by whatever means may be necessary if, in the opinion of the department, the mammals may conflict with native species of birds or mammals or cause damage to public or private property. The owner shall reimburse the department for all costs incurred in capturing or removing the mammals from the wild. The owner of the mammals shall be responsible for any damage they may cause to public or private property.

Any domesticated big game mammal may be marked with ear tags or other suitable markings or tags, as may be specified by the commission, which shall identify the owner of the mammals.

(Amended by Stats. 1970, Ch. 527.)

3216.

All domesticated game birds and mammals, excepting deer, sold under the provisions of this article, shall be killed otherwise than by shooting. This section does not apply to licensed pheasant clubs, licensed domesticated migratory game bird shooting areas, or to the training or practice of hunting dogs.

(Amended by Stats. 1970, Ch. 1312.)

3217.

The carcass of a game bird which shows that it has been killed by shooting shall constitute prima facie evidence that it was not a domesticated game bird. The fact that the bird has been tagged in accordance with Section 3206 of this code shall not alter this presumption.

(Enacted by Stats. 1957, Ch. 456.)

3218.

Any license issued under this article may be revoked by the commission upon conviction of the licensee of a violation of any provision of this code, and no similar license may be issued to the licensee during the same license year.

(Amended by Stats. 1985, Ch. 234, Sec. 2.)

3219.

Domesticated reindeer may be imported into this State and sold only in accordance with regulations which the commission may prescribe.

(Enacted by Stats. 1957, Ch. 456.)

ARTICLE 2. Commercial Hunting Clubs [3240.5 - 3246]

(Article 2 enacted by Stats. 1957, Ch. 456.)

3240.5.

(a) For purposes of this article, the following terms have the following meanings:

(1) "Commercial hunting club" means property with respect to which a fee is imposed or collected for either of the following:

(A) Taking or attempting to take birds or mammals on the property.

(B) A type of entry or use permit that includes permission to take birds or mammals on the property.

(2) "Property" means a number of contiguous legal parcels owned by one or more owners and held out for a common purpose.

(b) A person, including, but not limited to, an owner, renter, or lessee, who is in possession or control of a commercial hunting club, shall procure a commercial hunting club license before a bird or mammal may be taken on the property.

(c) This article does not apply under any of the following circumstances:

(1) The fees described in paragraph (1) of subdivision (a) that are received by the owner, renter or lessee of the property are less than one hundred dollars (\$100) per entrant and total less than one thousand dollars (\$1,000) between July 1 and the following June 30. Pursuant to Section 713, department may adjust the threshold amounts established in this paragraph.

(2) The property is used in conjunction with the Shared Habitat Alliance for Recreational Enhancement (SHARE) program under Article 3 (commencing with Section 1570) of Chapter 5 of Division 2.

(3) A domesticated game bird hunting club licensed under Article 3 (commencing with Section 3270) operates on the property.

(4) A domesticated migratory game bird shooting area licensed under Article 4 (commencing with Section 3300) operates on the property.

(5) The property is used by a hunting club or program licensed under regulations adopted pursuant to this code.

(6) The property is used in conjunction with the private wildlife habitat enhancement and management program under Article 5 (commencing with Section 3400).

(7) The property is used for an officially sanctioned field trial event pursuant to regulations adopted pursuant to this code.

(8) The property is subject to a recorded state, federal, or nonprofit wildlife conservation or agricultural easement or is enrolled in a habitat protection or enhancement program under this code, including, but not limited to, Article 7 (commencing with Section 3460).

(d) This chapter does not apply to an owner of property that is rented or leased to a commercial hunting club, if the owner is not involved in the operation of the club and the club is licensed in accordance with this chapter.

(Amended by Stats. 2015, Ch. 154, Sec. 68. Effective January 1, 2016.)

3241.

(a) An application for a commercial hunting club license shall be submitted on a form furnished by the department. The application, which shall set forth all of the exemptions and conditions established in Section 3240.5, shall require the applicant to include all of the following information:

(1) The name of the club and the ownership.

(2) The business telephone number and mailing address of the club.

(3) The number of properties used by the club and the physical location of each property.

(4) The total acreage of the club property.

(5) A list of all species of game hunted on the club property.

(6) Information as to whether the club owner owns any of the properties used by the club.

(7) The name and address of each property owner, if the property owner is substantially involved in the operation of the club, but does not own the club.

(8) The signature and title of the applicant.

(9) Any other information the department may require.

(b) The department shall allow a commercial hunting club that leases or rents more than one property for hunting purposes to submit a single application listing each of the properties for which the club is seeking a license, if all of the information required for each property is submitted in a format approved by the department.

(Repealed and added by Stats. 2009, Ch. 394, Sec. 8. Effective January 1, 2010.)

3242.

(a) The department may issue a commercial hunting club license to any person upon submission of a completed application and payment of the required fee, according to the number of properties used by the club, as follows:

(1) The fee for one property shall be two hundred dollars (\$200).

(2) The fee for two to five properties shall be five hundred dollars (\$500).

- (3) The fee for six to 10 properties shall be one thousand dollars (\$1,000).
(4) The fee for 11 or more properties shall be two thousand dollars (\$2,000).
(b) The fees specified in this section are applicable to the 2010 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(Repealed and added by Stats. 2009, Ch. 394, Sec. 10. Effective January 1, 2010.)

3243.5.

The commission may transfer a commercial hunting club license to other land owned or controlled by the licensee, in the same county as the originally licensed land, without an additional fee, if the commission finds the new land suitable for the purposes of the license and the transfer does not conflict with the public interest.

(Amended by Stats. 2015, Ch. 154, Sec. 69. Effective January 1, 2016.)

3245.

Commercial hunting club licenses are valid for a term of one year from July 1st, or, if issued after the beginning of such term, for the remainder thereof. A license authorizes the person to whom it is issued to maintain a hunting club in accordance with the provisions of this code and such regulations as the commission may prescribe.

(Amended by Stats. 1959, Ch. 248.)

3246.

Any license issued under this article may be revoked by the commission at one of the commission's regularly scheduled meetings, or by a court of competent jurisdiction, upon the licensee's conviction of a violation of this code, and no new license may be issued to the licensee during the same license year.

(Amended by Stats. 1986, Ch. 1244, Sec. 3.)

ARTICLE 3. Licensed Domesticated Game Bird Hunting Clubs [3270- 3270.]

(Heading of Article 3 amended by Stats. 1994, Ch. 849, Sec. 7.)

3270.

(a) In order to provide additional hunting by stocking domestically propagated game birds, and to permit the taking of game birds under conditions that will not conflict with the public interest, any person who owns or controls the hunting

rights on a tract of land may apply to the department for a game bird club license authorizing the taking of game birds upon that land in accordance with the regulations of the commission for the administration, including the implementation and enforcement, of this section.

(b) This section shall become operative on July 1, 1995.

(Repealed (in Sec. 8) and added by Stats. 1994, Ch. 849, Sec. 9. Effective January 1, 1995. Section operative July 1, 1995, by its own provisions.)

ARTICLE 4. Licensed Domesticated Migratory Game Bird Shooting Areas [3300 - 3311]

(Article 4 added by Stats. 1970, Ch. 1312.)

3300.

It is unlawful for any person to engage in the raising and releasing, or the releasing, of domesticated migratory game birds for shooting by persons who pay for that privilege, unless the person has a revocable nontransferable license issued by the department. The licenses may be issued annually by the department and shall be valid from July 1 through the following June 30, upon payment of a base fee of eighty dollars (\$80), as adjusted under Section 713. Any bird of a species included in the definition of migratory game birds, as defined in Section 3500, which has been held live in captivity is a "domesticated migratory game bird" for purposes of this section, except such a bird that has been released from captivity and any control before attaining six weeks of age.

(Amended by Stats. 1986, Ch. 1368, Sec. 13.)

3301.

The application for a license shall show the size and location of the area to be licensed. If an application is approved and a license is issued, the licensee shall post the boundaries of the licensed area with signs, at intervals of not more than 500 feet, which shall indicate that the area is licensed for the shooting of domesticated migratory game birds. Such signs shall be of a size not less than 12 by 18 inches.

(Added by Stats. 1970, Ch. 1312.)

3302.

The commission may prescribe additional regulations deemed necessary for the releasing and shooting of domesticated migratory game birds and shall set the season and areas where such birds may be taken. If the licensee violates any of the provisions of this article or any regulations made pursuant thereto, the commission may cancel or revoke the license provided notice has been given to

the licensee and he has been given an opportunity to be heard by the commission.

(Added by Stats. 1970, Ch. 1312.)

3303.

Where domesticated migratory game birds are reared or held for release by the licensee, the licensee shall provide proper and adequate care for the birds and shall raise and hold them only under sanitary conditions. Conditions for proper care and raising shall be prescribed by the commission. The licensee shall provide for the inspection of birds and facilities upon the request of the department.

(Added by Stats. 1970, Ch. 1312.)

3305.

All domesticated migratory game birds at time of release for shooting shall be at least 14 weeks of age, capable of strong and sustained flight, fully feathered, and otherwise in condition to survive in the wild. Birds that are altered in any manner which would, in the opinion of the department, render them incapable of normal sustained flight, or which are diseased, or show evidence of malnutrition or injury, shall not be released.

(Added by Stats. 1970, Ch. 1312.)

3306.

Shooting shall be confined to blinds, except for shooting necessary to recover a downed and injured bird, and not more than three shooters shall occupy or use each blind. Such blinds shall be constructed to prevent the shooting of domestic migratory game birds over water and to insure maximum safety to occupants of adjoining blinds.

The blinds shall be so situated that the occupants of the blinds cannot see the release site.

The licensee shall not permit any shooting within 500 feet of a point where the birds are released, nor shall any birds be taken within such distance from the point of release.

(Added by Stats. 1970, Ch. 1312.)

3307.

All birds killed or injured by shooters shall be retrieved without delay, and all injured birds shall be humanely dispatched. The licensee shall not permit injured birds to remain on a pond or feeding area, nor shall he knowingly permit such birds to be used in any subsequent release.

In order to prevent the loss of any dead or injured birds, the licensee shall provide the use of a retrieving dog, without cost, to all shooters, except that shooters may provide their own retrieving dogs. The licensee shall not permit the shooting of any birds unless a retrieving dog is immediately available for use by all shooters.

(Added by Stats. 1970, Ch. 1312.)

3308.

Licensees shall pay the department an inspection fee not to exceed five cents (\$0.05) for each domesticated migratory game bird raised or used on a licensed area to insure proper adherence to these regulations.

(Added by Stats. 1970, Ch. 1312.)

3309.

No dead, domesticated migratory game bird shall be removed from the premises of a licensed area until there is securely attached to the carcass a seal, and such seal shall remain attached to the carcass until it is finally prepared for consumption. Each such seal shall be supplied by the department at a fee set by the commission not to exceed five cents (\$0.05).

(Added by Stats. 1970, Ch. 1312.)

3310.

It shall be unlawful for any person to shoot domesticated migratory game birds on a licensed area without having a valid hunting license as provided by Section 3031.

(Added by Stats. 1970, Ch. 1312.)

3311.

The licensee shall comply with all applicable federal laws or regulations relating to the releasing and shooting of domesticated migratory game birds.

(Added by Stats. 1970, Ch. 1312.)

ARTICLE 5. Enhancement and Management of Fish and Wildlife and their Habitat on Private Lands [3400 - 3408]

(Heading of Article 5 amended by Stats. 1992, Ch. 818, Sec. 1.)

3400.

It is the policy of the state actively to ensure the improvement of wildlife habitat on private land in order to encourage the propagation, utilization, and conservation of fish and wildlife resources on those lands now and for the future in cooperation with private landowners. The commission and the department may develop a private wildlife habitat enhancement and management program for the implementation of this article.

(Amended by Stats. 1992, Ch. 818, Sec. 1.5. Effective January 1, 1993.)

3401.

(a) The commission may authorize the department to issue revocable, nontransferable licenses for the operation of wildlife habitat enhancement and management areas on any private lands it determines are suitable for habitat enhancement, management, utilization, propagation, and conservation of fish and wildlife resources of those lands. Any private lands affected by a habitat enhancement and management plan licensed pursuant to this article shall not be available for use by the general public without the consent of the landholders. No public access road shall be closed to the public under this article as a result of licensing a wildlife habitat enhancement and management area or implementing the wildlife habitat enhancement and management plan.

(b) The commission shall authorize hunting during the rut only in a wildlife habitat enhancement and management area when that hunting is consistent with the management plans prepared for that area or herd and does not result in an overall negative effect on the deer herd population in that area.

(Amended by Stats. 1992, Ch. 818, Sec. 2. Effective January 1, 1993.)

3402.

(a) A license for a wildlife habitat enhancement and management area may be issued to any landholder or combination of landholders upon approval by the commission of an application submitted by the landholder. As used in this article, "landholder" means any person who owns, leases, or has a possessory interest in land.

(b) Each license application shall be accompanied by a nonrefundable fee in an amount established by the commission which, in conjunction with the fees collected pursuant to Section 3407, is calculated to meet the department's actual

costs in administering all aspects of the habitat enhancement and management program. The application shall be accompanied by a wildlife habitat enhancement and management plan and such other information about the proposed wildlife habitat enhancement and management area as may be required by the commission.

(c) An application for a license may be submitted by any number of landholders if all parcels to be included in the wildlife habitat enhancement and management area are contiguous and, in combination, are of a size suitable for the management of the species included in the wildlife habitat enhancement and management plan. The landholders shall designate one landholder who shall represent them in all dealings with the commission and the department. The designated landholder shall be responsible for the operation of the wildlife habitat enhancement and management area.

(d) A landholder who does not own the fee to the land may apply for a license pursuant to this article only if the owner signs the application.

(Amended by Stats. 1992, Ch. 818, Sec. 3. Effective January 1, 1993.)

3403.

The commission shall require the landowners of a wildlife habitat enhancement and management area to post all or part of its boundaries with public land. The commission may require the owners of a wildlife habitat enhancement and management area to post all or part of its boundaries with private land.

(Amended by Stats. 1992, Ch. 818, Sec. 3.5. Effective January 1, 1993.)

3404.

(a) The commission may adopt regulations necessary for the administration of this article.

(b) After notice and a hearing, the commission may revoke the license for any violation of any provision of this code or any regulations adopted pursuant thereto or for any violation of the terms of the license.

(Amended by Stats. 1984, Ch. 144, Sec. 29.)

3406.

(a) Upon approval of the wildlife habitat enhancement and management plan, the department shall issue a license, which shall be valid for five calendar years, authorizing the taking of those species of fish, game birds, and game mammals designated in the wildlife habitat enhancement and management plan, pursuant to the plan and regulations of the commission for the operation of the wildlife

habitat enhancement and management area. Regulations adopted pursuant to this section may supersede any provision of this code designated by number in the regulation, but shall do so only to the extent specifically provided in the regulation.

(b) During the first year of operation of a wildlife habitat enhancement and management area under a wildlife habitat enhancement and management plan and, thereafter, until the operator demonstrates habitat enhancement in the area acceptable to the department, no person shall take, and the plan shall not authorize the taking, of deer except during the general open season and consistent with the bag and possession limits for the fish and game district or the zone in which the wildlife habitat enhancement and management area is located.

(c) The activities conducted pursuant to each wildlife habitat enhancement and management plan shall be reviewed annually by the department and reviewed by the commission at a public hearing. Each licensee shall annually submit information to the department about past activities and the activities intended to be conducted in the succeeding year. Any change to the wildlife habitat enhancement and management plan or the regulations applicable to the wildlife habitat enhancement and management area shall be proposed to the commission by the department or the licensee at the license review hearing.

(Amended by Stats. 1992, Ch. 818, Sec. 4. Effective January 1, 1993.)

3407.

The commission may require that any fish, bird, or mammal taken in a wildlife habitat enhancement and management area licensed pursuant to this article be marked for identification with a distinctive tag or seal issued by the department prior to being removed from the area. A deer tag shall be countersigned by a person who is authorized to countersign deer tags pursuant to Section 372 of Title 14 of the California Code of Regulations. Any fish, bird, or mammal so identified may be possessed and transported at any time during the period for which the tag or seal is valid. The fees for tags and seals shall be established by the commission in amounts which, in conjunction with fees collected pursuant to Section 3402, are calculated to meet the actual costs incurred by the department in administering all aspects of the habitat enhancement and management program.

(Amended by Stats. 1992, Ch. 818, Sec. 5. Effective January 1, 1993.)

3408.

Any landholder who has paid the fee required by this article, has a valid license issued pursuant to this article, and who is conducting activities pursuant to an

approved wildlife habitat enhancement and management plan that could be licensed or permitted pursuant to another provision of this code shall be exempt from any requirement to obtain that other license or permit or to pay any other fee. This section shall not, however, be construed to exempt anyone from any requirement pertaining to hunting and sport fishing licenses and stamps.

(Amended by Stats. 1992, Ch. 818, Sec. 6. Effective January 1, 1993.)

ARTICLE 6. Management of Fish and Wildlife on Military Lands [3450 - 3453]

(Article 6 added by Stats. 1986, Ch. 591, Sec. 1.)

3450.

It is the policy of the state to actively encourage the biologically sound management of fish and other wildlife resources on lands administered by the United States Department of Defense. The department may develop a program to implement this article in cooperation with the military services.

(Added by Stats. 1986, Ch. 591, Sec. 1.)

3451.

The department may coordinate and cooperate with all branches of the United States military service, Department of Defense, for the purpose of developing fish and wildlife management plans and programs on military installations. The plans and programs shall be designed to provide biologically optimum levels of fish and wildlife resource management and use compatible with the primary military use of those lands. Military lands involved in programs developed pursuant to this article shall not be available to the general public without the consent of the military service administering the lands.

(Added by Stats. 1986, Ch. 591, Sec. 1.)

3452.

The commission may adopt regulations and authorize the department to enter into agreements with the United States Department of Defense for the administration of this article.

(Added by Stats. 1986, Ch. 591, Sec. 1.)

3453.

(a) Upon approval of specific management plans and programs, which reflect the recommendations of the department, the commission may authorize actions and adopt regulations governing those actions pursuant to this article.

(b) The provisions of Sections 457, 458, 459, and 460 do not apply to regulations adopted under this article.

(c) The activities conducted pursuant to this program shall be reviewed annually by the department and the commission.

(Added by Stats. 1986, Ch. 591, Sec. 1.)

ARTICLE 7. The California Waterfowl Habitat Program [3460 - 3467]

(Article 7 added by Stats. 1987, Ch. 633, Sec. 2.)

3460.

(a) Subject to appropriation pursuant to Section 3467, the director may enter into contracts with nonpublic entities which are owners of record, or with lessees, who have the owners of record execute the contract, of land determined by the director to be important for the conservation of waterfowl. The contract shall enforceably restrict the use of the land for the conservation of waterfowl and their habitat consistent with Section 8 of Article XIII of the California Constitution.

(b) The director shall give priority to contracts that have the greatest potential for restoring, enhancing, and protecting high quality waterfowl habitat, especially that which is subject to destruction, drastic modification, or significant curtailment of habitat values.

(c) Contracts entered into pursuant to this section are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(Amended by Stats. 1990, Ch. 1425, Sec. 2.)

3461.

Each contract shall be for an initial term of 10 years and shall include all of the following:

(a) The designation of the owner of record and any lessee, and the legal description and the assessor's parcel number of the land subject to the contract.

(b) An agreement by the owner and any lessee to restore, enhance, and protect the waterfowl habitat character of the described land and to carry out a waterfowl habitat management plan developed with the department.

(c) Specification of the amount and date in each year that the payment is to be made by the department to the owner or lessee, which shall be calculated at the rate or rates that the director determines to be fair and reasonable in consideration of the obligations undertaken by the owner or lessee.

(d) A requirement that the owner or lessee do either of the following:

(1) Refund to the state all payments received under the contract plus interest at the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or lessee's violation of the contract, or any extension thereof, if the director determines that the violation warrants termination of the contract and the director terminates the contract.

(2) Make refunds or accept payment adjustments that the director determines are appropriate, not to exceed the total amount paid by the state to the owner or lessee in the preceding calendar year plus interest at the legal rate, as specified in Section 3289 of the Civil Code, if the director determines that the violation by the owner or lessee does not warrant termination of the contract.

(e) A requirement that the department reduce the amount of any payment to the owner or lessee under subdivision (c) by an amount equal to the portion of any payment under the Federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) which the department determines to be in compensation for the same obligation undertaken by the owner under the water bank program.

(f) A requirement that the department monitor compliance with the management plan or contract with the United States Soil Conservation Service or other appropriate agency, entity, or person to monitor compliance with the management plan, and that the owner or lessee allows access for the monitoring.

(g) Any additional provisions that the director determines are desirable to effectuate the purposes of the program or to facilitate its administration.

(Added by Stats. 1987, Ch. 633, Sec. 2.)

3462.

(a) Not later than 20 days after the director has entered into a contract pursuant to this division, a copy of the contract particularly describing the subject habitat as required by subdivision (a) of Section 3461 shall be recorded by the department in the office of the county recorder in each county in which any portion of the areas subject to the contract is located. The contract shall be indexed by the recorder in the grantor-grantee index to the name of the owner of record as grantor and to the department as grantee.

(b) Notwithstanding Section 27383 of the Government Code, the department shall pay the fees for recording and indexing the contract, and the department shall deduct the amount paid from the amounts due to the owner under the contract.

(Added by Stats. 1987, Ch. 633, Sec. 2.)

3464.

The contract shall be automatically renewed in the same manner as contracts are renewed and extended, or noticed for nonrenewal, under the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code). Upon the request of the owner or lessee, the director shall reexamine the payment rate for the contract at five-year intervals, considering the then current management costs and, with the concurrence of the owner or lessee, make any needed adjustments in rates for the remainder of the contract term.

(Added by Stats. 1987, Ch. 633, Sec. 2.)

3465.

(a) If during the contract period the owner or lessee is divested of the use of the waterfowl habitat subject to the contract, the owner or lessee shall notify the department concurrent with that divestment. Any unearned payment shall immediately be refunded by the owner or lessee to the department.

(b) If the owner or lessee divests himself or herself of the use of the area subject to a contract by sale or otherwise, the person succeeding to that use is subject to all of the terms and conditions of the contract.

(Added by Stats. 1987, Ch. 633, Sec. 2.)

3466.

The director and the owner or lessee may mutually agree to modify the terms and conditions of a contract under this division as the director may determine to be desirable to carry out the purposes of, or to facilitate administration of, the program.

(Added by Stats. 1987, Ch. 633, Sec. 2.)

3467.

The California Waterfowl Habitat Preservation Account is hereby created in the Fish and Game Preservation Fund, and the money in the account shall be transferred to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Division 4 of Title 2 of the Government Code. The proceeds of the investment deposited in the account shall be available, upon appropriation by the Legislature, for expenditure pursuant to this article. However, not more than 7 percent of the money appropriated from the account for expenditure in any fiscal year shall be expended in that fiscal year for administrative costs of the department.

(Added by Stats. 1987, Ch. 633, Sec. 2.)

ARTICLE 8. Management of Wildlife at Public Use Airports [3470 - 3472.2]

(Article 8 added by Stats. 2009, Ch. 186, Sec. 1.)

3470.

It is the policy of the state to actively encourage the safe and biologically sound management of wildlife resources on California's public use airports as regulated by the Federal Aviation Administration (FAA) and its agents. The Legislature recognizes that public use airports serving in the United States are operated according to regulations and policies promulgated by the FAA and federal law that protect the health, safety, and welfare of the public in compliance with applicable FAA regulations, standards, policies, and guidance, wildlife hazard management plans, and associated permits.

(Added by Stats. 2009, Ch. 186, Sec. 1. Effective January 1, 2010.)

3471.

The Legislature recognizes that, in a public use airport's ongoing efforts to protect the health, safety, and welfare of the traveling public in compliance with Federal Aviation Administration (FAA) regulations, and specifically Section 337 of Part 139 of Title 14 of the Code of Federal Regulations, it is necessary to perform limited and authorized wildlife hazing, harassment, and depredation. The Legislature further recognizes that FAA certificated public use airports and their wildlife hazard management staff must harass, haze, or perform removal of species to protect the health, safety, and welfare of the public when authorized by a current, valid federal fish and wildlife depredation permit.

(Added by Stats. 2009, Ch. 186, Sec. 1. Effective January 1, 2010.)

3472.

The taking of birds by a public use airport certificated by the Federal Aviation Administration to operate in California that has obtained, and is in compliance with, a federal depredation permit that authorizes, under specified conditions, the lawful taking of birds, does not violate any provision of this code or regulations adopted pursuant to this code if the taking is in compliance with the federal depredation permit for the purposes specified in Section 3472.1 and all of the following conditions are met:

- (a) The taking occurs on lands owned or leased by the airport.
- (b) The taking does not occur on lands owned or leased by the airport that are reserved for habitat mitigation or conservation purposes of the species being

taken, including lands in a habitat conservation plan, or a natural communities conservation plan.

(c) There is no taking of a fully protected, candidate, threatened, or endangered species.

(Added by Stats. 2009, Ch. 186, Sec. 1. Effective January 1, 2010.)

3472.1.

Take is authorized pursuant to this article only to relieve or prevent injurious situations affecting public safety and shall only be performed as part of an integrated wildlife management program that emphasizes nonlethal management techniques.

(Added by Stats. 2009, Ch. 186, Sec. 1. Effective January 1, 2010.)

3472.2.

A public use airport certificated by the Federal Aviation Administration shall provide to the department any federal depredation permit and all federal reports required pursuant to any federal depredation permit or wildlife hazard management plan, or both, and shall also provide reasonable access to the department for purposes of ensuring compliance with this article. The department shall seek reimbursement from the public use airport for any reasonable costs associated with activities resulting from any violations of this article.

(Added by Stats. 2009, Ch. 186, Sec. 1. Effective January 1, 2010.)